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Addressing the Elephant in the Room: Learning from CITES CoP17.

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Abstract:

The 17th CITES conference of the parties exhibited a draconian opposition to any trade in ivory. A key component of this opposition was the intergovernmental regime's consolidation of North-South power differentials through the increased presence and influence of Northern conservation-focused NGOs. Using the example of ivory, this forum article unpacks this dynamic, before advocating for more participatory, decentralised, and polycentric approaches to the global governance of endangered species trade at future CITES CoPs.

Forum Article:

The Convention on International Trade in Endangered Species (CITES) views trade and biodiversity conservation as reconcilable entities (Sand, 1997). Nevertheless, that balance does not always play out. CITES' 2016 Johannesburg-based conference of the parties (CoP17), showed a draconian opposition to any trade in ivory, to the detriment of a minority of Southern, pro-trade actors. The contest over whether to allow ivory trade or not revealed strong power differentials between the Global North and Global South, a point that has been made repeatedly in research on CITES and other international environmental regime negotiations (Duffy, 2013; Okereke and Coventry, 2016). We advance argumentation in this

area by demonstrating how CITES CoP17 specifically increased North-South power differentials, and even sought to normalise them, through increased presence and influence of non-state actors in this CoP.

During the ivory trade debate, state and non-state actor coalitions – with increased leverage of Northern conservation-focused NGOs – exercised institutional, structural, and discursive power to delimit acceptable policy prescriptions within CITES, silencing dissent and deepening North-South inequalities (Boström and Hallström, 2010). Catalysed by concerns surrounding problems implementing trade regulations (Reeve, 2006), and undergirded by Haas’ (1992) notion of epistemic communities, we characterise CoP17 as a hegemonic governance coalition which reifies North-South power asymmetries under the guise of environmental conservation (Epstein, 2006; Holmes, 2011). In response to calls for more decentralised, polycentric approaches to the global governance of endangered species trade (Abensperg-Traun, 2009), we conclude by advocating for a more participatory governance architecture within CITES.

CITES

Established in 1973, CITES signifies the emergence of extinction anxieties, a concomitant transboundary biodiversity ‘crisis’, and collective-action problem requiring a harmonious, unified, and global response (Reeve, 2006). This interpretation is underscored by the belief that ‘wild flora and fauna ... are an irreplaceable part of the natural systems of the earth which must be protected for this and the *generations to come*’ (CITES, 1973:1, *emphasis added*), an intergenerational temporality which pre-dates the Brundtland Report (WCED, 1987). As a ground-breaking multi-lateral environmental agreement, CITES stipulates that international trade in species is dependent on their classification within two key appendices; with Appendix I prohibiting commercial trade in species threatened by extinction, and Appendix II permitting regulated trade of species not currently threatened by extinction (CITES, 1973:1-2). The decision to up-list/down-list species between these appendices is the primary concern of CITES’ biennial/triennial CoPs, which provide a forum for dialogue between states with competing interests, enabling ‘open, transparent, evidence-based and multilateral’ decision-making procedures to ensue (CITES-WTO, 2015:6).

Each CoP is facilitated by a UNEP-delegated secretariat, who operates as an ‘orchestrator’ (Young, 2011), exercising soft power to mobilise both state and non-state

actors, operationalise scientific expertise, and provide impartial guidance. Crucially, bar ‘exceptional circumstances’ which permit the *promotion* of trade, CITES regulations *regulate* trade, underpinned by the belief that ‘peoples and States are and should be the best protectors of their own wild flora and fauna’ (CITES, 1973:1). This dovetails with CITES’ faith in market-led solutions to sustainability (enshrined within Appendix II), positing economic growth (through trade) and biodiversity protection as reconcilable entities (Velásquez-Gomar and Stringer, 2011). Therefore, in re-affirming purported synergies between trade, the environment, and development, CITES posits social, economic, and environmental interests as compatible through ‘sustainable trade’ (CITES-WTO, 2015:11). Nevertheless, a notable dichotomy has emerged between anti-use protectionists and pro-use trade advocates (Bowman, 2013).

Well before CoP17, scholars problematised the dominant role of the Global North in regulation via CITES. Roe (2006:27) contends that ‘given that the general direction of wildlife trade flows is from developing to developed countries, unilateral measures imposed by consumer countries ... can smack of Northern imperialism’. Duffy (2013) laments the role of Northern environmental NGOs within CITES’ negotiation processes, redolent of a colonial present shrouded beneath a veil of interstate cooperation.

CoP17, ivory, and non-state actors

CoP17 pitted Northern conservationists and the ‘29-member African Elephant Coalition’ (Korwin *et al.*, 2017:140) against the pro-Ivory trade bloc (comprising Namibia, Zimbabwe, Swaziland, and South Africa). Pro-trade advocates advanced a counter-hegemonic narrative emblazoned under a pragmatic, common sense rationale to resume ivory trade, eliding with the assertion that trade bans prevent the ‘sensible legal utilization of a valuable self-generating natural resource thus contradicting the very concept and meaning of conservation... not preventing its illegal utilization but supporting it’ (CITES, 2016b:4-5). Biggs (2016) contextualises this notion, exploring ivory trade as a polarising governance issue characterised by pro-use proponents who suggest that indiscriminate banning of ivory paradoxically incentivises poaching by reducing supply and increasing prices (Seguya *et al.*, 2016). Cooney and Jepson expound this narrative, suggesting that CoP17’s blanket bans will stimulate further illegal activity, positioning trade-bans as counter-productive, ‘appealingly simple solution[s] that resonate in the Northern public mind’ (2006:22).

The ban on ivory trade agreed at CoP17 reflects the outcome of struggles for discursive hegemony between actors with competing interests (Hajer, 1995:59), a dynamic consolidated by CoP17 continuing a trend towards more hybridised governance coalitions within global governance. In challenging the state-centric legacy of multilateralism, and paralleling a wider post-Paris trend toward polycentric governance (Ostrom, 2010; Oberthür, 2016), CoP17 boasted 183 Parties (182 nation-states and the EU) and numerous non-state actors. Concordant with Kuyper *et al.*'s (2018:2) notion of 'hybrid multilateralism' and a broader shift towards post-Westphalian governance landscapes, CoP17 spliced state and non-state actors, producing reconfigured actor coalitions, rhetorically promoting participation and strengthening representation to engender accountability, enhance transparency, augment compliance, and affect outcomes.

Nasiritousi *et al.* (2016:920) embellish this narrative, explicating three key rationales for CITES' inclusion of non-state actors, centred around the reduction of a perceived legitimacy deficit within global governance:

- (1) *Functionalism* ('the contribution of non-state actors to output legitimacy in terms of expertise'),
- (2) *Neocorporatism* (emphasising 'the inclusion of affected interests'), and
- (3) *Democratic pluralism* (which 'claims that non-state actors increase input legitimacy through procedural values').

Working from this framework, we contend that CoP17 was plagued by a logic of functionalism, to the detriment of neocorporatism and democratic pluralism.

In concordance with Duffy (2013), NGOs exercised structural power (Boström and Hallström's, 2010) at CoP17 to propagate a narrative which downplayed inter-state antagonisms, overlooking Southern state's dissenting voices in favour of homogenous, unrepresentative narratives which reproduced and deepened global inequalities. Indeed, whilst the WWF (2016) acknowledged the monopoly of Northern interests at CoP17, the NGO re-inscribed this dynamic by staunchly opposing the legalisation of ivory trade. As such, they idolised the proposed instatement of the 'National Ivory Action Plan' process as a viable alternative to functionally monocentric governance arrangements, lauded as enhancing developing nations' capacity to eradicate ivory trade.

Resultantly, CoP17 re-engrained a dyad between activist-oriented conservation claims and kill-to-save sustainable-use advocates in the governance of endangered species (Bauer *et al.*, 2017), contextualising Depledge's assertion that international regimes are prone to ossification, as expressed by 'rancorous relationships, stagnating issues and stifled debates' (2006:1). Indeed, CoP17's outcomes were dependent on scientific expertise to provide a legitimising force, which substantiated moral claims and delegitimised counter-hegemonic narratives (Duffy, 2013:225). This dynamic is exemplified by CITES' unwavering faith in the precautionary principle as a rationality of governance, a tool which delimits acceptable policy outcomes through the ability to take decisions in the absence of scientific certainty (van Asselt and Vos, 2006).

The role of scientific expertise in supporting the Global North's position manifest itself through CoP17's reliance on seemingly neutral and uncontested science surrounding the implications of ivory trade – a normative failing which side-lined distributive justice concerns (Rawls, 1971). This masked the inherently political implications of up-listing particular species, invoking a crudely utilitarian logic through rejection of the decision-making mechanism for a process of trade in ivory. This downplayed the trade bloc's misgivings surrounding the need for positive incentives for landholders to co-exist with, rather than displace elephants, *and* revenues generated from elephant-based products used to finance conservation programmes (CITES, 2016c:2). This approach silences alternative narratives and re-entrenches the power asymmetries underpinning neoliberal governance systems.

CoP17 mobilised Northern conservation expertise 'as a powerful political weapon to silence alternative views and deepen existing unequal power relations produced by a neoliberal global system' (Duffy, 2013:236), consonant with an understanding of how apocalyptic imaginaries facilitate 'depoliticised action in the present' (de Goede and Randalls 2009:860). This reliance on scientific expertise reflects the prevalence of an eco-centric epistemic community at CoP17, conferring a 'network of professionals with recognised expertise and competence ... an authoritative claim to policy-relevant knowledge within that domain or issue-area' (Haas, 1992:3). This was typified by NGOs engaging in soft-steering activities, relying on scientific expertise to provide a 'reasoned argument that persuades dissenters of a particular policy position' (Duffy, 2013:225). For example, at CoP17 Western governments relied on IUCN and TRAFFIC (NGOs) analyses to fuel a trade ban polemic

(CITES, 2016a), producing anticipatory analyses of the ramifications of proposals to change trade rules, underscoring the potentially ‘dangerous’ nature of re-igniting controlled ivory trade (Bauer *et al.*, 2017:3). In excoriating a veneer of scientific neutrality underpinning CoP17 regulations, this exposes a troubling affinity with a post-political dialectic (Swyngedouw, 2010), preserving hegemonic governance arrangements and discrediting counter-arguments to produce seemingly ‘universally applicable and technically inspired regulations’ (Duffy, 2013:236).

Implications for future CITES governance

CoP17’s hegemonic governance coalition downplayed discursive divergences both between *and* amongst the global North and South, culminating in the rejection of a more representative, case-specific governance paradigm. Unfortunately, this cannot be seen as an example of having ‘all hands on deck’, as has been suggested in relation to other environmental negotiations (Hale, 2016), but is more akin to pirate capture of the ship’s deck. In response to the trend towards increased elitist technocracy in CITES, there is a need to re-shake ‘the kaleidoscope of environmental governance ... multiplying the crystals it contains’ (Castree, 2015:312) to broaden the constellation of non-state actors and diversify relevant expertise at *future* CITES CoPs – increasing attention to the aforementioned neocorporatism. Consequently, analysis of CoP17 suggests that there is no one panacea for the successful governance of trade in endangered species (Biggs, 2016). There is, however, a need for more experimental governance approaches that challenge the prevalence of one-size-fits-all policies in governance of endangered species trade.

These recommendations are particularly pertinent given CoP18’s (2019, Geneva) imposition of stricter regulations regarding domestic measures and inter-state ivory trade (CITES, 2019). In this case, anti-trade proponents utilised NGO lobbying power to marginalise the South African Development Community’s public concerns that anti-trade legislation threatens ‘national sovereignty, inclusive and equitable development, and the rights of local communities living with wildlife to use those resources’ (IISD, 2019:27). This reinforces the need to challenge CITES’ proclivity for top-down, implicitly monocentric, and bureaucratic governance arrangements in favour of multi-scalar, polycentric governance coalitions that will diversifying non-state involvement and *further* democratise environmental governance (Ostrom, 2010). This intersects with the need for biodiversity agreements to adhere to the fragmented and multipolar nature of governance landscapes, eschewing the

reification of established preservationist interests in favour of empowering historically marginalised perspectives of conservation through use as a means of satiating democratic principles.

Invoking a reconfigured spatial grammar (Bulkeley, 2005) and logic of democratic pluralism (Willetts, 2006), we recommend development of enhanced context-specific decision-making procedures to ensure that CITES regulations reflect the ‘socio-economic and cultural complexity of wildlife trade’ (Challender *et al.*, 2015:130). This could be achieved by initiating a new process of trade in ivory which incorporates procedural and distributive justice claims. This proposition is underpinned by the belief that CoP17’s outcomes, like previous CITES CoPs, signify a reliance on ‘power rather than reasoned argument’ (Gehring and Ruffing, 2008:124), carving eristic divides between nation-states. The rise of influence of non-state actors in CoP17, particularly scientific expertise, has even further narrowed ‘debate to the application of trade controls’ (Challender *et al.*, 2015:142) - preserving their status as purveyors of apolitical knowledge.

Conclusion

Catalysed by Duffy’s (2013) contention that CITES CoPs tacitly re-inscribe North-South power asymmetries, rendering Southern nations states as both *subjects* and *objects* of governance, we have critiqued CoP17’s ban on ivory trade in 2016. Importantly, we contend that CITES’ inclusion of non-state actors is not inherently negative, but that their involvement at CoP17 indulged a limited Northern perspective, and re-inscribed unequal power dynamics – despite both pro *and* anti-trade argumentation being inherently justifiable. This led us to champion a logic of democratic pluralism through advocacy for more experimental governance approaches. Reflective of a desire to promulgate more balanced, heterogeneous, and polycentric governance structures, this has underscored a need to dismantle North-South dichotomies of difference in favour of more representative environmental governance arrangements *without* threatening the welfare of endangered species or impeding timely decision-making procedures. As such, we propose the explicit incorporation of conservation-based expertise within CITES regulations, prioritising locally-engaged data-collection *and* the explicit acknowledgement of, and voice to, scholars from the global South.

Biography:

Alfie Gaffney has recently completed a Master's in Global Environment, Politics and Society at the University of Edinburgh. He is an ardent environmentalist, who hopes to establish a career within academia in the near future.

Darrick Evensen is a lecturer in environmental politics at the University of Edinburgh. Much of his research explores the role of the general public as a non-state actor in energy governance and policy. He also focuses on normative aspects of decision making in energy and environment controversies. Recent (2019) publications include: 'The rhetorical limitations of the #FridaysForFuture movement' (*Nature Climate Change*), 'Political divergence in how people view scientific consensus on unconventional energy development increases partisan gaps in issue support' (*Energy Research and Social Science [ERSS]*), and 'Just environmental governance for shale gas? Transitioning towards sustainable local regulation of fracking in Spain' (*ERSS*).

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